

Proposed variation:	Distribution Connection and Use of System Agreement (DCUSA) DCP004: Abstention by an entire category (DCP004)		
Decision:	The Authority¹ directs that this variation be made²		
Target audience:	Parties to the DCUSA and other interested parties		
Date of publication:	27 September 2007	Implementation Date:	1 November 2007

Background to the proposed variation

The DCUSA governance arrangements provide for the parties to determine the outcome of a change proposal by the casting of votes, if the change is to a Part two matter, or for parties to provide a recommendation to the Authority, again by voting, if the change is to a Part One matter.

The intention of the voting system is to try and ensure that small parties have an appropriate level of influence in the change control process. To that end parties to the DCUSA are split in different Party Categories depending on the type of business they are. The party Categories are DNO's, IDNO's, Suppliers and Generators. Parties in the DNO category vote on an individual basis, since it was considered appropriate for them to have an equal level of influence amongst each other. Parties in the Supplier, Generator and IDNO categories vote on a corporate group basis, this is to ensure that parties that have multiple Licences are not able to exert an undue level of influence, within their Party Category. For a change proposal to be approved or recommended a minimum number of votes are required within each party category that is eligible to vote. If this minimum hurdle is not achieved, the proposed variation will not be implemented or will be recommended not to be implemented³. This means that in the event of no Group in any Party Category casting a vote, then that will result in a proposal being rejected or regarded as a recommendation not to implement, depending on whether it is a Part 1 or Part 2 matter.

The proposed variation

The proposed variation provides that in the event of no Group in a Party Category casting a vote, in effect abstaining, then that Party Category should be treated as if it were not eligible to vote.

The proposer considers that abstaining Party Categories should not prevent Proposed Variations from being implemented or being recommended as is currently the case. In the view of the proposer this seems to award abstaining Party categories an inappropriate level of influence, in terms of determining the outcome of a proposed variation. In the view of the Proposer, DCP004 will award abstaining Party Categories with a more appropriate level of influence in not being able to prevent or ensure a

¹ The terms 'the Authority', 'Ofgem' and 'we' are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ The minimum requirements are different depending on whether the proposed variation is to a Part 1 or Part 2 matter. The actual voting methodology is quite complex and takes into consideration a number of factors. The complete details can be found in DCUSA section 12.

Proposed Variation's implementation. The proposer considers this will also provide more consistency of approach within the DCUSA, because the DCUSA already treats single abstaining Party Groups, within a Party Category as having no influence over the outcome of a vote. The Proposer considers this would better facilitate achievement of applicable DCUSA objective (d)⁴.

Recommendation to Ofgem

Proposed variation

The DCUSA Parties' recommendation was for the proposed variation not to be implemented. Of the Party Categories which were eligible to vote (DNO, IDNO, and Supplier) over 50% of DNOs and Suppliers recommended implementing the proposed variation. No votes were received from the IDNO party category, therefore the overall recommendation was for the change proposal to be rejected.

Implementation date

The DCUSA Parties recommendation was for the proposed implementation date to be rejected. Of the Party Categories which voted (DNO, IDNO, and Supplier) over 50% of DNOs and Suppliers voted in favour of implementation of the proposed variation. No votes were received from the IDNO party category, therefore the overall recommendation was for the change proposal to be rejected.

The Authority's decision

The Authority has considered the issues raised by DCP004 and the final Change Report (CR) dated 2 July 2007. The Authority has considered and taken into account the responses to ElectraLink's⁵ consultation which are attached to the CR⁶ and the recommendation of the DCUSA Parties. The Authority has concluded that:

1. implementation of the proposed variation will better facilitate the achievement of the Applicable DCUSA Objectives⁷; and
2. directing that the proposed variation be made is consistent with the Authority's principal objective and statutory duties⁸.

Reasons for the Authority's decision

Prior to designation of the DCUSA, there were some concerns that smaller parties should have meaningful participation in the change control process with the ability to exert an appropriate level of influence. For this reason, the voting system for change proposals established a number of hurdles that a change proposal had to pass if it was to be considered an approved amendment or a recommendation to implement to the Authority.

⁴ As set out in the Distribution Licence Standard Condition 9B(9), see:
http://195.12.224.140/document_fetch.php?documentid=8378

⁵ The role, functions, and responsibilities of Electralink are set out in Section 1B of the DCUSA.

⁶ DCUSA change proposals, modification reports and representations can be viewed on the DCUSA website at <http://www.dcusa.co.uk/Public/Default.aspx>

⁷ As set out in the Distribution Licence Standard Condition 9B(9), see:
http://195.12.224.140/document_fetch.php?documentid=8378

⁸The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989.

One such hurdle being that on a change proposal vote, all Party Categories considered eligible to vote must vote with sufficient support required within each Party Category to overcome the prescribed hurdles.

The drawback of this process, as was in fact demonstrated by this particular proposed variation itself, is that in the event of no Groups within an eligible Party Category casting a vote, then the influence of such abstention will be that the proposal is rejected or recommended not to be implemented.

Ofgem considers that there may sometimes be occasions where Parties to DCUSA, although impacted by a Proposed Variation, may nevertheless be indifferent to it. This may result in those Parties not prioritising responding to a change declaration. If all parties or Groups within a specific Party Category adopted this approach towards a specific Proposed Variation this would result in such a variation not being implemented or recommended. This would occur even if there was sufficient support within the other Party Categories for the variation to be made or recommended. Ofgem considers allowing a Proposed Variation to be implemented or to be recommended in the event that an entire Party Category abstains from casting a vote would promote efficiency in the operation of the arrangements and therefore better facilitate achievement of applicable DCUSA objective (d).

Ofgem considers the change proposed within Proposed Variation DCP004 will still leave sufficient safeguards within the change proposal process to ensure all parties have the opportunity to have their voice heard, should they wish to avail themselves of such opportunity. Consequently, we do not consider the influence afforded to any DCUSA party via the change control process will be compromised from the current position.

DCP004 does create a slight incentive for Parties to ensure that they respond to a change declaration, particularly if they are against a Proposed Variation. Abstaining Party Categories will no longer be deemed to be a vote against a proposal and therefore parties will need to ensure that their vote against is registered to be sure it will be counted. Ofgem considers creating such an incentive may result in Parties scrutinising proposals more thoroughly, against the Applicable DCUSA objectives, to ensure they fully understand the impact of a Proposed Variation. We consider such an incentive will also better facilitate achievement of Applicable Objective (d).

Decision notice

In accordance with Standard Condition 9B of the Distribution Licence, the Authority hereby directs that the proposed variation set out in DCP004: "Abstention by an entire category" be made, and that it shall be implemented on 1 November 2007.



Mark feather
Associate Director, Industry Codes and Licensing
Signed on behalf of the Authority and authorised for that purpose.

